

ORIGINAL**In the United States Court of Federal Claims**

No. 03-445C
 (Filed: September 9, 2005)

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TEXAS PEANUT FARMERS, et al.,

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Plaintiffs,

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FILED

SEP 9 2005

U.S. COURT OF
FEDERAL CLAIMS

ORDER

On remand from the Federal Circuit's May 31, 2005 decision directing the court to transfer the case to the appropriate district court(s), the court held a telephonic status conference on September 7, 2005, in which the parties disagreed regarding to which court(s) the case should be transferred. Prior to the conference, the plaintiffs submitted documents indicating that other cases involving many of the same plaintiffs and issues have been centralized in the United States District Court for the Eastern District of North Carolina with Marvin Taylor Barnhill, et al. v. Ross J. Davidson, et al., No. 4:02-159 pursuant to an order by the Judicial Panel on Multidistrict Litigation.

Based on the September 7, 2005 status conference, the court is treating the plaintiff's submission as a motion to notify the Judicial Panel on Multidistrict Litigation that the case may be a "Tag-Along" action to the action now centralized in the Eastern District of North Carolina. It is the court's understanding that the government opposes such a notification, on the bases that this case is not a "Tag-Along" case because this court is not a "district court" under 28 U.S.C. § 1407 (2000) and that this court is only authorized to transfer cases to the court in which the case "could have been brought at the time it was filed" under 28 U.S.C. § 1631 (2000).

Accordingly, before deciding whether notifying the Judicial Panel on Multidistrict Litigation would be consistent with the Federal Circuit's order to transfer the case pursuant to 28 U.S.C. § 1631, the court establishes the following schedule for briefing on the issue:

Wednesday, September 21, 2005

The government shall file its response to the plaintiffs' motion to notify. If the government argues that notification to and transfer by the Judicial Panel on Multidistrict Litigation as a "Tag-Along" case would not be appropriate at this time, the government should address whether it would be appropriate to transfer the case (or individual plaintiffs) to various district courts pursuant to 28 U.S.C. § 1631 and to simultaneously notify the Judicial Panel on Multidistrict Litigation of the pendency of potential "Tag-Along" actions in those district courts.

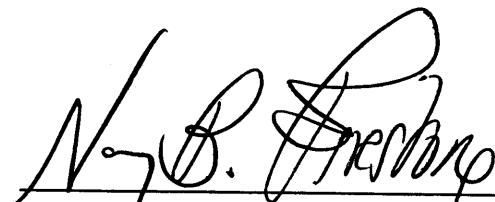
Friday, September 30, 2005

The plaintiff shall file its reply.

Each party shall send the court a courtesy copy of its brief via email to:
Firestone_Chambers@ao.uscourts.gov.

IT IS SO ORDERED.

A TRUE COPY	APR 4 2006
TEST:	
BRIAN BISHOP	
Clerk, U.S. Court of Federal Claims	
By  Deputy Clerk	



NANCY B. FIRESTONE
Judge

cc: The Hon. Malcolm J. Howard, U.S. District Judge
U.S. District Court for the Eastern District of North Carolina
201 South Evans Street
Greenville, NC 27858